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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/047,084

01/14/2002

James Kelly O'Rourke

65,337-001

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07/12/2005

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EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,084

Applicant(s)

O'ROURKE ET AL.

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed 4/11/2005 has been entered.

Claim Status

Claims 16-32 are pending in this case and are treated as followed.

Claim Rejections - 35 USC § 112

1. Claims 16-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 16 calls for "A method of managing analytical data" but fails to comprise a "critical" step for carrying out the managing function which is permitting accessing to the centralized database by various parties such as end-use customers, sponsors, etc., as indicated in the "Summary of the Invention", specification page 3, which makes it vague and indefinite since it's not clear how the managing of the analytical data is carried or can be obtained. Combining the language of dep. claim 19 into claim 16 is recommended in order to overcome the rejections.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 16-22, 24-27, 30-32 are rejected under 35 U.S.C. 103(a) as being obvious over MARGREY et al (US patent 6,192,320) in view of Applicant Admitted Prior Art (AAPA) or vice versa.

As for independent claim 16, MARGREY et al discloses a method of managing analytical data for a liquid sample (blood) from a body of an end-user client (human/patient) to determine the status (condition) of the client (patient) {see col. 1, lines 35-45 (or c1:35-45)}, the method comprising the steps of:

- a) assigning a unique identifier (ID) {see col. 13, lines 19-20 (or c13:19-20), c13:50-53 for inherent teachings} for an end-user customer;
- c) associating the customer (ID) with the sample in a centralized database {see c13:19-20, c13:50-53 for inherent teachings};
- d) connecting the centralized database to the Internet to allow access thereto {see c6:3-55, c7:5-12};
- e) collecting liquid samples from the body of an end-user client {c1:35-50};
- f) testing the liquid samples by at least two different analytical sources to produce analytical data relating to the liquid sample {see c11:4-11 which describes multiple (3) analyzers, i.e. for interaction between Lab Unit analyzer, multiple stand alone analyzers, and/or automated analyzers; or c1:60-67 which describes different analyzers such as (1) "simple local analyzer", (2) complicated centralized analyzer (lab)", see c14:21-44 which discloses the use of (3) automated analyzer}

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- g) uploading the analytical data from the two different analytical sources in a format different from one another into the centralized database across the Internet {see c7:27-40, c8:30-60, c13:39-40};
- h) converting the analytical data from the formats of the two different analytical sources into a common format {see c7:27-40, c8:30-60, c13:39-40}; and
- i) comparing (reviewing/evaluating) the analytical data in the common format to determine status of the body of the client {see c1:38-48, c4:55-60}.

As for the further limitation / intention of (d) for verification of the analysis using at least 2 independent analytical sources, this verification limitation is fairly taught by MARGREY et al on c14:25-45 "*to maintain a continuity and to demonstrate the compatibility of the automated and stand alone systems*", and c1:65 to c2:6. Therefore, the term "independent" analytical sources would read over "different" analytical sources and if high quality result is of concern, it would have been obvious to carry out the testing of the liquid sample by the 3 different analyzers as indicated above, one by the stand alone analyzing system, one by the automated analyzing system, and one by the central lab with trained medical technologist {see c1:65-c2:5}. Note that the interchange language of "different" and "independent" also agreed upon by the applicant on page 1, line 13, of the specification. Note also that MARGREY et al teaches the concept of using multiple analytical instruments for a wide variety of tests {see col. 8, lines 1-5}, or monitoring rerun of test, or number of test run {see col. 7, lines 15-23}. Therefore, MARGREY et al fairly teaches the claimed invention except for the difference in the type of liquid sample, a oil sample which is used as lubricant from a piece of equipment

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utilized by an end-user customer. However, on col. 1, lines 45-48, MARGREY et al mentions that their interactive remote sample analysis system or teaching in general is applicable to **industrial** process control wherein real time monitoring of the progress of chemical reactions by on-site analytical techniques prevents dangerous conditions or loss of products.

AAPA, as shown under "Background of the Invention" on page 1 of the specification, discloses a manual managing of analytical data for liquid samples (oil which serves as a lubricant) for **industrial** maintenance tool whereby analyzed results (or data) from various/multiple analyzers (3) , i.e. (1) commercial laboratories, (2) internal laboratory, or on-site test equipment are poorly managed, lost and difficult to access since they are in paper form. It would have been obvious for a skilled artisan in the laboratory analysis art at the time the invention was made to modify the Internet-implemented automatic method of managing analytical data for liquid samples of MARGREY et al to other type of liquid samples such as oil or lubricant samples as mentioned in AAPA as mere applying similar method to other similar liquid samples to achieve similar results, absent evidence of unexpected results. No evidence of unexpected results have been submitted with respect to the use of different type of liquid sample, oil vs. blood, over the same laboratory analysis process, have been submitted.

Alternatively, It would have been obvious for a skilled artisan in the laboratory analysis art at the time the invention was made to modify the manual data managing of AAPA with the Internet-implemented automatic method of managing analytical data for

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liquid samples of MARGREY et al to obtain well known benefits of the Internet such as availability, accessibility, convenience, and efficiency (real time, fast and cheap, updating) {see MARGREY et al c4:47-65, c6:25-63, c7:5-23, c15:65-c16:3}. Note that in the specification, page 2, lines 1-3, applicants mentioned the similarity between the oil analysis with respect to the "health of the equipment" is similar to the "blood test" for a human. In other word, this concept is interchangeable or would have been obvious to a skilled artisan in the laboratory analysis art. As for step (b), this is inherently included in the teachings of MARGREY et al /AAPA or vice versa.

As for dep. claims 17-18, 24-27 (part of 16), which deals with well known item identification (ID) assigning parameters to maintain proper ID for review, managing, tracking, etc., this is non-essential to the scope of the claimed invention (managing analytical data to determine status) and is fairly taught in MARGREY et al /AAPA especially in view of general ID assigning teachings in MARGREY et al c13:5-20, 30-40, 45-55. The assigning of any ID for any analyzer, equipment, user, manufacturers, etc. associated with the oil samples would have been obvious for monitoring/management purpose, otherwise, it will be total chaos and confused with many unidentified samples.

As for dep. claim 19 (part of 16), which deals with well known database accessing parameters, i.e. by the oil manufacturer or equipment manufacturer, this is taught in MARGREY et al /AAPA especially in view of MARGREY et al on c7:25-30, c12:10-15.

As for dep. claims 20-22 (part of 16), which deals with well known process monitoring parameters, i.e. alerting related samples connector with respect to the

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abnormal status report of the samples, these are fairly taught in MARGREY et al / AAPA especially in view of the teachings of MARGREY et al on col. 1, lines 35-50 "*rapid assessment of a situation so that corrective actions may be taken.... Ill patient must be accessed and corrected before a life threatening condition occurs. Abnormal laboratory results.... Prevents dangerous conditions or loss of products*".

As for dep. claims 30-31 (part of 16), which deals with well known oil lubricant type parameters, i.e. petroleum-based oil lubricant, this is non-essential to the scope of the claimed invention (managing analytical data to determine status) and is fairly taught in MARGREY et al / AAPA especially in AAPA page 2, last paragraph.

As for dep. claim 32 (part of 16), which deals with well known oil lubricant source parameters, i.e. from at least one machinery or vehicle, this is non-essential to the scope of the claimed invention (managing analytical data to determine status) and is fairly taught in MARGREY et al / AAPA especially in AAPA page 2, 3rd paragraph.

4. Dependent Claims 23, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over MARGREY et al / AAPA or vice versa as applied to claims 16-22, 24-27, 30-32 above, and further in view of GOVRIN et al (US 2003/008 4053).

As for dep. claim 23 (part of 16), the teachings of MARGREY et al / AAPA is cited above. In another similar method for information/data management, GOVRIN et al discloses the use of Business Intelligent (BI) software/system for analyzing data comprising the steps of sorting, accumulating, aggregating, trending, managing the data, etc. for the benefits of : (1) helping enterprise users make better business decisions by historical data analysis and the retrospective assessment of trends,

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association between events, sequences of events, clustering or groups of events and forecasting, and or predictions of the future {see [0004, 0005, 0006, 0007, 0015]. It would have been obvious for a skilled artisan in the laboratory analysis art at the time the invention was made to modify the data analysis of MARGREY et al /AAPA or vice versa by sorting, accumulating, aggregating, trending, managing the data, etc. for the benefits of : (1) helping enterprise users make better business decisions by historical data analysis and the retrospective assessment of trends, association between events, sequences of events, clustering or groups of events and forecasting, and or predictions of the future as taught by GOVRIN et al {see [0004, 0005, 0006, 0007, 0015].

As for dep. claims 28-29 (part of 16), which deals with well known data analysis parameters, i.e. generating a data model and automatically converting the data model into common format for subsequent analysis, these are fairly taught in MARGREY et al /AAPA and GOVRIN et al especially in view of the teachings of GOVRIN et al in [0008, 0020].

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

No claims are allowed.

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6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (571) 272-6812. The FAX phone numbers for formal communications concerning this application are (703) 872-9306. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
June 27, 2005


DEANT. NGUYEN
PRIMARY EXAMINER